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SUBJECT: ALGERIANS OFFER NEARLY ALL ASSURANCES NEEDED FOR  
RETURN OF GTMO DETAINEES

REF: 2005 ALGIERS 2155

Classified By: Ambassador Robert S. Ford, reasons 1.4 (b,d)

**11. (S) SUMMARY:** In April 21-22 discussions led on the Algerian side by Counselor to the President for Counterterrorism Issues Kamel Rezag Bara, the government of Algeria gave oral assurances to S/WCI Ambassador Williamson and an interagency delegation to establish the terms for the transfer of Algerian detainees from the U.S. Naval Base at Guantanamo to Algeria. A working group consisting of members of both delegations encapsulated these oral assurances in written minutes of the meetings, which Williamson and Rezag Bara initialed at the end of the two-day dialogue. The meetings and their output produced sufficient assurances to permit the repatriation of the seven Algerian detainees scheduled for transfer, except with respect to ensuring that these individuals would not pose a security risk to the U.S. or international community. The Algerian delegation indicated that it took seriously its obligations, but that Algerian security services balked at providing such guarantees in the written meeting minutes.

**12. (S) SUMMARY (CONT'D):** Ambassador Williamson explained to Rezag Bara that we sought maximum effort from the security services, understanding that there could be no solid guarantees. Nonetheless, Rezag Bara said the security assurances in writing sought by the U.S. on Algerian responsibility for transferred detainees and potential travel restrictions after their repatriation could not be given without consulting the highest levels of the Algerian government. In exchange for receiving additional time (until May 31) to coordinate on these outstanding points, Rezag Bara and the Algerian delegation agreed to the earliest possible transfer of detainee Sofiane Haderbache, who suffers from mental illness and for whom the U.S. does not require security assurances. At the close of the bilateral discussions, both sides agreed that the remaining assurances would be worked out between the Algerian and U.S. delegations through Embassy Algiers. End Summary.

COURTESY CALL ON FM BEDJAQUI

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**13. (S)** S/WCI Ambassador at Large J. Clint Williamson and an interagency team consisting of Christopher Camponovo (NSC), Jay Alan Liotta (DoD), Andrew Morrison (S/WCI), and Vijay Padmanabhan (State L) sought assurances from the government of Algeria during April 21-22 discussions that would permit the return to Algeria of Algerian nationals detained at Guantanamo who have been approved for transfer. Williamson opened the visit with a courtesy call on FM Bedjaoui during which he delivered a letter from Secretary Rice seeking Bedjaoui's assistance in providing the Algerian government assurances necessary for the transfers. Williamson also explained the process by which the U.S. made decisions on

transferring detainees out of Guantanamo, including the 25 Algerians on the naval base.

¶14. (S) Noting Algerian reluctance to enter into an exchange of diplomatic notes offering assurances on security and humane treatment of transferred detainees, Williamson told Bedjaoui he and his team could work with their Algerian counterparts to record the necessary assurances in signed minutes of their discussions. The end goal, stated Williamson, was to find an arrangement that both fulfilled the Administration's policies and satisfied the Algerian government. Bedjaoui responded that the Algerian team would accommodate Williamson and his team, adding that signed minutes were a better vehicle for conveying the necessary assurances than an exchange of diplomatic notes. The FM observed that the travaux préparatoires for the UN Charter are as important as the Charter itself.

#### DISCUSSIONS WITH ALGERIAN INTERAGENCY

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¶15. (S) The Algerian delegation led by presidential counterterrorism Counselor Kamel Rezag Bara included representatives from the Presidency, Ministry of Interior, National Police, security services, Ministry of Justice, and the Ministry of Foreign Affairs. The senior MFA official present was Director General for Consular Affairs Hassane Rabehi. The U.S. representatives (paragraph 3) also included Ambassador Ford and PolEc Chief. Ambassador Williamson noted that the Algerians were a valued partner in counterterrorism cooperation and gave an overview of U.S. policy on Guantanamo detainees, explaining that the U.S. had determined that seven Algerian detainees were eligible for transfer. He emphasized our need for commitments concerning humanitarian treatment for returned detainees and assurances that persons

transferred do not re-engage in terrorist activity before their transfer to Algeria could be effected.

¶16. (S) Rezag Bara said Algeria encouraged the U.S. to close the Guantanamo detention facility, since its operation created image problems for the U.S. among its friends around the world. The GOA, he continued, understood the need for investigations at Guantanamo on the detained individuals and supported a resolution of all Algerian detainee cases. Rezag Bara said the Algerian delegation understood what kinds of assurances and commitments the U.S. side sought and hoped to provide them in the course of their bilateral discussions. The presidential counselor stressed the Algerian need to ensure that any transferred detainees, unless previously arrested or charged in Algeria, were returning to the country by their own choice. Finally, he noted that Algerian law criminalized terrorist acts committed outside Algeria, even if Algeria was not a target of the activity. In this regard, the U.S. delegation should expect the Algerian government to pursue investigations and charges for returned detainees. From its own experience with terrorism, Rezag Bara told Williamson, Algeria would take all measures possible to prevent re-engagement of the returned detainees in terrorist activity.

#### LIMITS ON FOREIGN TRAVEL

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¶17. (S) Williamson responded that he saw very few differences in approach between the two sides. Algeria's taking steps to control detainees and keep them from returning to terrorism would be sufficient for the U.S. Williamson made clear we were not asking Algeria to detain or incarcerate the returned detainees; it was sufficient for us to receive confirmation that the transferred detainees would be treated in accordance with Algerian law and international conventions. DoD's Liotta expressed appreciation for the Algerian readiness to accept responsibility for what would be in all cases medium- or high-threat detainees. He asked if based on Algerian review of the detainees, case files there was the likelihood of prosecution. Liotta also inquired what measures could be taken to limit the foreign travel of returned detainees.

¶8. (S) To Liotta's first point, the justice ministry representative responded that an investigative judge would review facts related to the cases if the detainees once they were returned. It would be up to the judge to determine whether charges would be filed. Rezag Bara added that as part of this judicial review process, the U.S. and other third parties could submit evidence for the judge to consider. The national police representative, for his part, briefed that under Algerian law "convicted and subversive persons" lose the right to a passport and are subject to additional surveillance. Liotta requested further precision about non-convicted persons, since most Algerian detainees fell into this category. Rezag Bara clarified that the passport was lifted for all convicted persons. Persons who "otherwise present a threat but retain a passport" may be administratively prevented from leaving Algeria regardless of their passport status, said Rezag Bara. He added that both judicial and security service reviews of the detainees' files would be undertaken following their return.

#### CASE OF SOFIANE HADERBACHE

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¶9. (S) Williamson noted that one of the seven detainees whom the U.S. sought to transfer to Algeria did not pose a security threat and no security assurances were necessary in his case. Sofiane Haderbache, said Williamson, had suffered a gunshot wound to the head in Afghanistan. As a result, this detainee had degenerative brain damage and would require extensive medical care for the duration of his life. Williamson indicated that the U.S. sought to return this detainee quickly, since we believed the mental health treatment and attention he required would be well provided in Algeria, where Haderbache could be near family and friends and receive mental health care in his own language and culture. Asked how the Algerians would address Haderbache's mental incapacity, Rezag Bara retrieved the case file. Reading from it, Rezag Bara noted that Haderbache had one outstanding traffic violation but otherwise had no legal entanglements. He said the GOA was fully aware of his unique medical requirements and was prepared to provide Haderbache a psychological and medical evaluation and treatment in an appropriate facility upon his return.

#### HUMANE TREATMENT AND ICRC ACCESS TO ALGERIAN PRISONERS

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¶10. (S) Bara had explained in his opening presentation that returned detainees would be fully protected by Algerian law and Algerian international human rights commitments. Returning to the other six detainees who posed a medium or high security threat, Williamson asked if third parties such as the International Committee of the Red Cross (ICRC) had access to prisoners in Algeria in the event that some of the returned detainees were held in penal facilities for a period of time. Rezag Bara responded that through intelligence channels the Algerian government could provide the location of government facilities in which any returned detainees would be held and questioned under the oversight of an investigative judge and the Ministry of Justice. The GOA, he continued, had no problem with making that information available or providing the ICRC access to the detainees under existing agreements between the ICRC and the Ministry of Justice. Rezag Bara added that ICRC personnel stationed in Tunis visited Algerian prisons on a monthly basis to assess conditions under which prisoners were held.

¶11. (S) In a separate meeting, Williamson met April 22 with Mohamed Amara, Director General of Juridical and Judicial Affairs at the Ministry of Justice. Amara noted as a point of pride the strong cooperation between his government and the ICRC, which he explained was critical to the reform of jails and prisons in Algeria. He elaborated that the ICRC regularly visited Algerian prisons. In response to a question from Williamson, Amara explained that the Algerians began allowing ICRC access to their detention facilities in

the 1990s. The ICRC currently, said Amara, has freedom to move within Algerian prisons and have direct contact with prisoners. He added there are no restrictions on access or topics of conversation. According to Amara, Algeria's goal in cooperating with the ICRC is to ensure that Algeria meets international standards of detention.

#### DEVIL IN THE DETAILS

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**¶12. (S)** Following the discussions between the two delegations, both sides assembled teams to prepare minutes of the conversations that would satisfy the U.S. need for assurances and the Algerian desire not to provide such assurances through the exchange of diplomatic notes. The final English-language version of the minutes, which appears in paragraph 13 below, was initialed April 22 by both heads of delegation along with the final French-language version. After protracted discussions led to an impasse on the inclusion in the minutes of two security-related points vital for the U.S. side, Ambassador Ford proposed working through Embassy Algiers to provide acceptable assurances to Washington by May 31. (Note: Without additional internal discussions, the Algerian security services could not be persuaded to lift their objection to including language confirming GOAQ's responsibility for transferred detainees. End Note.) Rezag Bara stressed the security services were uncomfortable guaranteeing that no returned detainee would later leave Algerian territory or return to terrorist activity. Williamson emphasized that the U.S. was looking for 100-percent effort and understood no 100-percent guarantee is possible. If the Algerian authorities become aware that a detainee exited Algeria, we merely ask to be informed, stated Williamson. The points in question which did not appear in the final minutes at GOA request follow:

-- The Algerian government has agreed to take responsibility for these persons in conformity with its legislation and its international obligations, and will take all necessary and appropriate measures in conformity with its legislation and its international obligations to prevent the transferred persons from becoming involved in or facilitating terrorist activities.

-- In response to an expressed request of the American Government concerning the possibility of the restriction of the freedom to travel abroad of the transferred persons, the Algerian Government indicated that measures of this nature will be taken only in the framework of legislative provisions in force.

#### FINAL MINUTES AS INITIALED BY HEADS OF DELEGATION

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#### **¶13. (S) BEGIN TEXT OF MINUTES:**

Mr. John Clint WILLIAMSON, Ambassador at Large for War Crimes Issues at the U.S. Department of State, conducted a working visit to Algiers from April 20 to 22, 2007, accompanied by a delegation composed of representatives from the Department of State, the Department of Defense and the National Security Council.

During his visit, Mr. John Clint WILLIAMSON called on Mr. Mohammed BEDJAOUI, Minister of State, Minister of Foreign Affairs, to whom he delivered a letter from Secretary of State Condoleezza RICE.

He was also received at the Ministry of Justice.

A bilateral meeting bringing together delegations from the two countries (the members of which appear on the attached list) took place at Residence El Mithak on April 21 and 22, 2007, under the chairmanship of Mr. Mohamed Kamel REZAG BARA, Counselor to the President of the Republic, and Mr. John Clint WILLIAMSON, Ambassador at Large for War Crimes Issues at the U.S. Department of State.

The discussions concerned the situation of Algerian nationals detained at the U.S. Naval Base at Guantanamo.

The Algerian Delegation and the American Delegation expressed their great satisfaction with the quality of relations that exist between the People's Democratic Republic of Algeria and the United States of America and with the perspectives for their expansion and strengthening.

Both Delegations particularly expressed their joint will to reach a comprehensive settlement concerning the situation of Algerian nationals detained in the U.S. Naval Base at Guantanamo.

This settlement can be finalized according to a timetable and practical modalities to be defined through discussions between the two Delegations by the end of May 2007.

The Algerian Delegation indicated that it had no objection to the transfer of the Algerian nationals whose Algerian nationality is established, to Algeria or to another country of their choice.

The Algerian Delegation stated that in all cases, its nationals will be brought before the national judicial authority, which will ultimately determine their status.

The Algerian Delegation underscored that Algerian legislation criminalizes membership by any Algerian national in a terrorist organization abroad, even if acts committed are not directed against Algeria.

With respect to the concerns expressed by the American Delegation about the treatment of the Algerian nationals after their return to Algeria, the two Delegations, after an exchange of information, agreed that these concerns are dealt with, at a political level, by the consistent commitment of Algeria to the fight against international terrorism and, at a legal level, by Algerian legislation as well as by virtue of the obligations assumed by Algeria in the framework of the different pertinent international conventions to which it has adhered, notably the Universal Declaration of Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the body of international instruments relating to human rights and the arrangements concluded with the ICRC.

Within the framework of relevant UN Security Council Resolutions for combating terrorism, particularly UNSCR 1373/01, the two Delegations decided to reinforce their cooperation through necessary and appropriate measures, notably through the exchange of information and intelligence, with the goal of preventing these persons from being able to become involved in terrorist activities.

Taking account of the preceding, the two Delegations accepted the principle, as a first step, upon the agreement of practical modalities, of the transfer of detainees whose names are as follows:

- TRARI Mohamed
- FEGHOUL Abdelli
- HAMLILI Mustapha
- ABBAR Houari
- GHALLAB Bachir
- HADJ-ARAB Nabil

Due to his health condition, Sofiane HADERBACHE is to be transferred as soon as possible.

END TEXT.

¶14. (U) Ambassador Williamson and his delegation have cleared the text of this message.

FORD